

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

V.

A-13-CV-01036 ML

ROBERT A. HELMS, ET AL.,

Defendants,

and

WILLIAM L. BARLOW and GLOBAL
CAPITAL VENTURES, LLC,

Relief Defendants, solely for
the purpose of equitable relief. §

**ORDER INSTRUCTING ROLAND BARRERA TO CEASE *EX PARTE*
COMMUNICATION AND MAKE ANY REQUEST FOR RECONSIDERATION OR
OTHER RELIEF IN A PROPER FILING**

On this day the Court received an email, sent by Roland Barrera to the PACER help desk and various individual court personnel, with the subject line “ATTN! Honorable ‘Judge Mark Lane’ – Activity in Case 1:13-cv-01036-ML Securities and Exchange Commission v. Helms et al Notice of Filing.” The email is attached to this Order as Exhibit A, with the email addresses of individual court personnel redacted to discourage further use of this improper method of contacting the court. While a party rarely has any cause to email individual court personnel, the email now in question presents substantive argument and seeks relief from the court regarding a recent summary judgment ruling in the above-styled case. Such a communication must be made

in a manner that provides all interested parties with notice and an opportunity to be heard. FED. R. Civ. P. 5(a)(1)(D) (written motions must be served on every party). Numerous individuals are copied on this email (including Barrera's codefendant, Deven Sellers, who has declined to update his mailing address with this Court for over a year, *see* Dkt. #98, Returned Mail for Deven Sellers dated September 4, 2014). The Court notes, however, that none of the attorneys for the SEC or the Receiver are included in the distribution list. Ex. A. The email is therefore an improper *ex parte* communication and will not be considered for any purpose.¹

Barrera is acting *pro se* and is therefore entitled to some lenience from the court. Such lenience does not extend to allowing complete disregard for the Rules of Civil Procedure, particularly the most basic rules of serving and filing motions. *See* Fed. R. Civ. P. 5(a)(1)(D); (d)(2); (d)(3). Barrera is perfectly capable of filing a motion before this Court; in fact, he has properly filed an Answer [Dkt. #64] and a Notice of Appearance *Pro Se* [Dkt. #65] in this case and he participated in the filing of a joint Notice of Consent to Trial Before Magistrate Judge [Dkt. 115]. His attempt to seek reconsideration of the summary judgment order issued against him by this Court on August 21, 2015 [Dkt. #275] in an email that is not properly filed or served on necessary parties is disingenuous, at best.

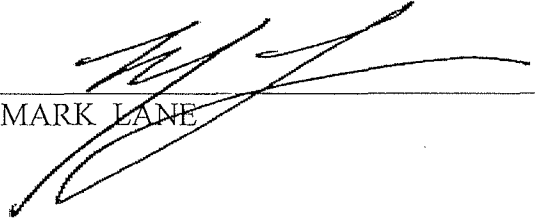
Therefore, IT IS ORDERED that Roland Barrera shall have no further improper *ex parte* contact, whether by email or otherwise, with any member of this court or its staff. Mr. Barrera is advised that no part of his September 11, 2015 email or its attachments is properly before this court, and no part of that *ex parte* communication will be considered for any purpose. Further

¹ An improper *ex parte* communication is any communication with the court or court personnel that seeks to present substantive argument to the court or asks for substantive relief from the court outside the presence of all interested parties. *Da Silva v. United States Citizenship & Immigration Servs.*, 599 F. App'x 535, 544-45 (5th Cir. 2015) (citing CODE OF CONDUCT FOR U.S. JUDGES Canon (3)(A)(4)(b)); *see also Drobny v. Commissioner*, 113 F.3d 670, 680 (7th Cir. 1997).

attempts at *ex parte* communication of substantive argument or requests for relief may lead to sanctions.

IT IS FURTHER ORDERED that Roland Barrera shall present any argument he may wish to make asking this court to reconsider its summary judgment order of August 21, 2015 [Dkt. #275], along with any supporting exhibits he wishes this court to review, in a properly filed Motion to Reconsider, **on or before September 28, 2015**. To be properly filed, any such motion must comply with Federal Rule of Civil Procedure 5 and Local Rule CV-5 in all respects, including the requirement of a certificate of service on all parties.

SIGNED on September 14, 2015.



MARK LANE

EXHIBIT A

From: Roland Barrera <barrera.roland@gmail.com>
To: txwd_ecf_help@txwd.uscourts.gov,
Cc: "sgtgiwillie@aol.com" <sgtgiwillie@aol.com>, Deven Sellers <devensellers@gmail.com>, WTerpening@nexsenpruet.com, bevers@nexsenpruet.com, yatasi@winstead.com, abrooks@winstead.com, joe@joeheartlaw.com
Date: 09/11/2015 08:51 PM

Subject: ATTN! Honorable "Judge Mark Lane" :Activity in Case 1:13-cv-01036-ML Securities and Exchange Commission v. Helms et al Notice of Filing

To: Honorable Judge Mark Lane,

My name is Roland Barrera. I have sat for almost two years pretty much defenseless to these allegations against me personally. I have been asked to step down as managing member in a business that I have created. My main partner had investors come to the table with some capital and since this summary judgment has come out i have since been pretty much unemployed. In my deposition from which Chris Davis conducted i was shown an email that I was cc'd on which has made me guilty of selling securities. Please note that I never knew what a security was until early 2014 or that I was actually getting sued until that deposition. I have never been sued or really have seen any official docs that state "Your getting sued Roland Barrera". This was and is simply not my business. The email that was shown as evidence in selling a security is here attached below. Another email I believe in the same day or one day prior is here attached as well which made me guilty for selling multiple securities from what i've been reading? I was cc'd in both. Attached is another email I was sent showing Jamie acknowledging the swap.

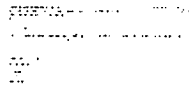
If this info was in Chris's and Tim's hand along with a signed PPM in other emails in the same time period. Wouldn't John Morally & Jamie Moore's complaint have just a little bit of some untruth to what was submitted, filed and what people are reading about myself in particular in the local papers here in Newport Beach and Costa Mesa? The signed addendum to the "PPM" is attached here below as well as some SEC laws on how "Security Based Swaps" are handled or treated. I assure you that I am no attorney in any way shape or form. I own a small bar that is now opened just 3 days a week due to the fact of what my character now represents in the local community. In that bar's entity/LLC I have 5 other partners that are in fear of their funds being frozen, no sales to pay back loans/investments or even taken from them. I haven't the funds to represent myself in any way shape or form and I am left with this email here to state my case or the allegations the SEC has against me. I am a renter, I don't own any assets and I am not sure how this is going to play out and if I lived in Austin I would have to represent myself and might of emailed this a few weeks back. I was expecting a final signed report from the honorable Judge Mark Lane by 9/4/15 but have yet to receive anything. Over the last 7 days I've done what I can to send a hell Mary and get as much education in this field as I could. I hope that it's not too late or this may clarify things up just a tad.

Signed Addendum from the parties responsible for naming me in this complaint:



addendum lacova.pdf

Email Chris had shown me to prove me guilty of alegations:



Screen Shot 2015-09-03 at 11.14.00 PM.png



An email that I was cc'd on just one day prior: Screen Shot 2015-09-03 at 8.10.19 PM.png



Screen Shot 2015-09-09 at 1.12.27 AM.png



Screen Shot 2015-09-09 at 1.21.07 AM.png



Screen Shot 2015-09-09 at 1.25.48 AM.png

Apparently the same Lacova Capital which include John Morally and Jamie Moore has a civil case just months before their complaint to the SEC (their case attached too). They didn't include my name or anything about me. It is when John Morally called me to tell me that if I didn't cooperate with them as needed they were going name me in this suit to the SEC. I called Deven and he was given the direction for me not to contact John back. a few months later this all happened.

Jamie and I were close friends and I did not go door to door selling securities as the complaint implies. Time stamped photos here of Jamie on my facebook and his girlfriend at the time way before this case started that I posted where they are clearly tagged in a 4th of July party we attended together in July of 2010.



Screen Shot 2015-09-11 at 4.20.14 PM.png

Lacova Case against Vendetta without a hint of mention about "Roland Barrera".



Plaintiffs 2ND Pet & Req for Receiver.pdf

Sincerely,

Roland Barrera

The information in this email is confidential. It is intended only for the use of the individuals or entities named above. You are hereby notified that if you are not the intended recipient, or employee or agent responsible for delivering it to the intended recipient, any use, dissemination, distribution or copying of the information in this email is strictly prohibited. If you receive this email in error, please notify us immediately by telephone and return the original by mail. Thank you.

On Aug 28, 2015, at 12:54 PM, Justice, Tina <JUSTICET@SEC.GOV> wrote:

This is a Registered Email® message from **Justice Tina**.

Dear Mr. Barlow, Mr. Barrera, and Mr. Sellers,

Please see the attached (proposed) Plaintiff's Final Judgment as to Defendants Robert A. Helms, Janniece S. Kaelin, Deven Sellers, and Roland Barrera filed ECF today. I will mail to you via U.S. Mail as well.

Thank you,
Tina Justice
Paralegal – Trial Unit
U.S. Securities and Exchange Commission

801 Cherry Street, Unit 18, Suite 1900
Fort Worth, TX 76102
Ph: 817-978-6483
Fax: 817-978-4927

From: TXW USDC Notice@txwd.uscourts.gov [mailto:TXW USDC Notice@txwd.uscourts.gov]
Sent: Friday, August 28, 2015 2:36 PM
To: cmecf_notices@txwd.uscourts.gov
Subject: Activity in Case 1:13-cv-01036-ML Securities and Exchange Commission v. Helms et al
Notice of Filing

This is an automatic e-mail message generated by the CM/ECF system. Please **DO NOT RESPOND** to this e-mail because the mail box is unattended.
*****NOTE TO PUBLIC ACCESS USERS***** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. PACER access fees apply to all other users. To avoid later charges, download a copy of each document during this first viewing. However, if the referenced document is a transcript, the free copy and 30 page limit do not apply.

U.S. District Court [LIVE]

Western District of Texas

Notice of Electronic Filing

The following transaction was entered by McCole, Timothy on 8/28/2015 at 2:36 PM CDT and filed on 8/28/2015

Case Name: Securities and Exchange Commission v. Helms
et al
Case Number: 1:13-cv-01036-ML
Filer: Securities and Exchange Commission
Document
Number: 277

Docket Text:

NOTICE of Filing Proposed Final Judgment as to Defendants Robert A. Helms, Janniece S. Kaelin, Deven Sellers, and Roland Barrera by Securities and Exchange Commission (McCole, Timothy)

1:13-cv-01036-ML Notice has been electronically mailed to:

Andrew M. Goforth goforth@lftaylorlaw.com, kelly@lftaylorlaw.com

Charles Miller cmiller@nexsenpruet.com, bevers@nexsenpruet.com,
SMSmith@nexsenpruet.com

Charles Christopher Groves chris.groves@milleregans.com

Chris Davis davisca@sec.gov, fairchildr@sec.gov, stewartan@sec.gov

David Kent Bissinger dbissinger@bizlawhouston.com, dbissinger@gmail.com,
samantha@bizlawhouston.com

Donald R. Littlefield dlittlefield@ballardlawfirm.com, cbell@ballardlawfirm.com,
jballard@ballardlawfirm.com

Jack D. Ballard jballard@ballardlawfirm.com, cbell@ballardlawfirm.com,
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Janniece S. Kaelin janniecekaelin@gmail.com

Jonathan E. Schulz jschulz@nexsenpruet.com, cmatilainen@nexsenpruet.com

Robert A. Helms roberthelms1964@gmail.com, janniecekaelin@gmail.com

Timothy S. McCole McColeT@SEC.gov, FairchildR@SEC.gov, JusticeT@SEC.gov

William R. Terpening wterpening@nexsenpruet.com, bevers@nexsenpruet.com,
cward@nexsenpruet.com

Yasmin Islam Atasi yatasi@winstead.com, abrooks@winstead.com,
kkruise@winstead.com

1:13-cv-01036-ML Notice has been delivered by other means to:

Deven Sellers
7607 Coors Court
Arvada, CO 80003

Roland Barrera
1762 Kenwood Place
Unit H
Costa Mesa, CA 92627

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1080075687 [Date=8/28/2015]

[FileNumber=14637819-

0]

[74fedcdd2880e1bdaa8d409e4c97e6c57804eb20a4723e632de1afd4a42bcb523f
93242b65c7c90b07f5b64bd5f94d8b810b8469d6f97ba34282bc485674d9df]]

[Click here](#) to send a Registered Email[®] message to anyone.

<Doc 277 Proposed Final Judgment.Ref.MSJ.08.28.15.pdf>